

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

GLENN EDWARD SMITH,

Plaintiff

VS.

NO. 5:06-CV-21 (DF)

BILL MASSEE, *et al.*,

Defendants

PROCEEDINGS UNDER 42 U.S.C. §1983
BEFORE THE U. S. MAGISTRATE JUDGE

RECOMMENDATION

Before the court is the plaintiff GLENN EDWARD SMITH's **MOTION FOR VOLUNTARY DISMISSAL WITHOUT PREJUDICE** (Tab #40) and the response of defendant BILL MASSEE (Tab #41) in which defendant TRINITY SERVICES GROUP, INC. has joined (Tab #42).

Plaintiff Smith wishes to have his claim dismissed so that he might re-file it with the assistance of an attorney. The plaintiff states in his motion that no defendant would be harmed by the court's granting of his motion. Such is not the case, however. As defendant Massee makes clear in his response, the defendants in this case have been put through substantial trouble and expense while litigating this case through discovery and their filing of motions for summary judgment. The plaintiff has been given a fair opportunity to litigate his case. To require the defendants to re-litigate this case from scratch after discovery has concluded would be an undue, unnecessary, and expensive burden on them.

Accordingly, IT IS RECOMMENDED that the plaintiff's **MOTION FOR VOLUNTARY DISMISSAL WITHOUT PREJUDICE** (Tab #40) be DENIED. Pursuant to 28 U.S.C. §636(b)(1), the parties may serve and file written objections to this RECOMMENDATION with the district judge to whom this case is assigned **WITHIN TEN (10) DAYS** after being served with a copy thereof.

SO RECOMMENDED, this 12th day of SEPTEMBER, 2006.



A handwritten signature in blue ink that reads "Claude W. Hicks, Jr." The signature is fluid and cursive.

CLAUDE W. HICKS, JR.
UNITED STATES MAGISTRATE JUDGE